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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 53rd MEETING */

(Second part)

Held at the Palais des Nations, Geneva,
on Tuesday, 12 March 1985, at 6 p.m.

Chairman:	Mr. CHOWDHURY	(Bangladesh)
later:	Mr. KHMEL	(Ukrainian Soviet Socialist Republic)

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*/ The summary record of the first part of the meeting is contained in document E/CN.4/1985/SR.53.

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QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1985/23, 38 and 41; E/CN.4/1985/NGO/5, 11, 19, 32, 35, 39, 40, 42, 43 and 51; E/CN.4/1985/L.49 and L.79; A/39/631)

1. Mr. COLLIARD (France) said his delegation had been dismayed to note from paragraph 391 of document A/39/631 that the situation with regard to the protection of human rights in Chile had continued to deteriorate. It regretted that since 1980 the Government of Chile had refused to extend any co-operation to the Special Rapporteur. It wished to make a few observations on the institutional system and the de facto situation in that country.

2. The Government Junta held special powers covering all executive and legislative fields and even extending to the functioning of the judiciary, powers which were intended to remain in force until 1989. At the same time, there was a complicated system of states of emergency, states of siege and states of danger of disturbance of internal peace which had become institutionalized. Under the last-named, which had been reimposed on 9 March 1985 for a renewable period of six months, the President could order the detention of any individual for a period of 20 days outside penal institutions and without recourse to the courts. Persons accused of subversion could be refused entry into Chile or expelled, and the President could send dissidents into internal exile in remote areas for 90 days, without proceedings before an ordinary court. That legal framework was sufficient to stifle all democratic liberties.

3. The de facto situation of repeated violations of human rights was adequately reflected in the report to the General Assembly (A/39/631), and particularly in paragraphs 362-389. In spite of - or perhaps because of - the institutional régime, there had been a number of national protest demonstrations which had been severely repressed by the police and the armed forces. Among those killed had been a French priest, Father Jarlan, who had come to Santiago to minister spiritually to the most disadvantaged groups. Perhaps on account of the casualties caused by the action of the authorities the Government of Chile had refused to co-operate with the Special Rapporteur and hence with the Commission.

4. In view of the gravity of the situation, which had now lasted for over 11 years, his delegation considered that it should continue to be considered under a separate agenda item and that the mandate of the Special Rapporteur should be extended. His delegation agreed with the Special Rapporteur that delay in taking action which was in any case inevitable would simply result in unnecessary human suffering and bitterness.

5. Mr. DOMINGUEZ (Venezuela) said that Chile was subject to the arbitrary will of a single individual who confounded the public interest with his own interest and whose reasoning was becoming increasingly obscure. What was quite evident was that the vast majority of the Chilean people repudiated the actions of the régime, under which all social groups were subjected to violations of human rights. Chile was a high-technology police State, based on terror and ruled by a praetorian guard obsessed with attempting to revive the communist bogy in which no one believed.

6. Repudiation of the régime was unanimous in the Catholic Church and in all social classes; that unanimity explained the repression exercised by the Government, which at the same time complained of interference in its domestic affairs. Undeniably, some extremist groups calling themselves revolutionaries were committing acts of violence, which the régime seized upon in order to describe world-wide concern for respect for human rights in Chile as part of a vast conspiracy by its enemies. That was untrue. The Commission was acting in accordance with the principles of

international law and civilized standards which bound all signatories of the International Covenants on Human Rights. It was in the name of the real Chile, which had been a place of refuge against oppression and of tolerance for all ideologies, that his delegation would vote in favour of the draft resolution before the Commission (E/CN.4/1985/L.49).

7. Mrs. KRAMARCZYK (German Democratic Republic) observed that the Special Rapporteur's conclusion (A/39/631, para. 391) that the human rights situation in Chile had continued to deteriorate had gained topicality from the recent alarming events in that country. A report from Chile by a representative of the World Council of Churches had stated that the only solution the régime had found to prevent the poor from rebelling and to force them to accept their poverty was violence and terror. During the preceding year, 76 persons had been killed and over 39,000 sentenced to imprisonment. The Chilean Human Rights Commission had discovered 275 cases of torture and 1,535 acts of violence against prisoners. As the Special Rapporteur had said (para. 359), the institutionalization of the state of emergency had led to a breakdown of the rule of law.

8. Nevertheless, powerful militant actions against the Government continued. In spite of brutal police action against peaceful demonstrators, the broad protest movement was being joined by increasing numbers of people, including wide sections of the middle classes as well as leftist forces. The régime had responded with the "anti-terror" Act No. 18,314 of 16 May 1984 (A/39/631, para. 359), which provided legal cover for the arbitrary actions of the security forces. But as the International Herald Tribune of 8 February 1985 had observed, it was not terrorists but the increasingly successful protests against Pinochet's régime which posed the real threat. For the first time since the establishment of the dictatorship, the Catholic Church, in a pastoral letter from the Archbishop of Santiago in November 1984, had invited people to turn against the increased terror by the authorities. The courageous protests of the Chilean people against the Fascist dictatorship should be supported by the United Nations. The conclusions and recommendations of the Special Rapporteur constituted a sound basis for further action within the United Nations system and her delegation accordingly supported the proposals in draft resolution E/CN.4/1985/L.49.

9. Mr. GIACOSO (International Youth and Student Movement for the United Nations, ISMUN) said that his organization, which had been set up over 35 years before to promote among the young people of the world the ideals and principles underlying the founding of the United Nations, had been deeply concerned about Chile since 1973. The entire population suffered from the fact that repression was institutionalized not only through the proclamation of various states of emergency, but also through specific laws limiting certain fundamental rights and by the Constitution itself, which suspended the exercise of political rights until 1989.

10. In the specific field of education, the system was also pernicious: teachers were dismissed and students expelled for participating in popular protests, being members of humanitarian organizations or being involved in political activities. The Government had appointed rectors whose main function was to punish and expel all members of the teaching body or students who ventured to defend the right of freedom of expression. Hence academic freedom was impossible. Both classes and students were monitored by members of the security service who had infiltrated the universities. ISMUN's affiliated member in Chile, the Commission for the Defence of the Rights of Youth (CODEJU), and other organizations with which it had links had expressed their concern at the high figures for prostitution, drug addiction and alcoholism among the young resulting from the disastrous economic situation,

the insecurity caused by repression and the refusal to allow young people to campaign for a society based on equality, justice and freedom. The Chilean organization Protection for Children Harmed by the States of Emergency, in its report of October 1984, referred to several cases of young children who had suffered grave psychological disturbances as a result of violence against their relatives. Furthermore, during 1984 various branches of the security forces had arrested 66 children, besides the mass arrests in the shanty towns outside the large cities in which everyone over the age of 12 had been rounded up. On 1 December 1984, 54 children had been arrested when they had gone to UNICEF headquarters to seek help in securing the release of their fathers from Pisagua concentration camp. The children had been fingerprinted and photographed.

11. Social activities organized by young people and students were also brutally repressed. One example had been the arrest on 8 February 1985 of about 200 students who had been engaged in building a polyclinic and conducting cultural and leisure activities for children in the Aconcagua Valley, under the auspices of the Federation of Chilean Students (FECH). Those arrested had been ill-treated by the Carabineros officers and Patricio Manzano Morales, aged 21, had died. The police stated that the results of the autopsy were subject to the confidentiality of pre-trial proceedings but the lawyer of the victim's family, at a press conference, had rejected the official explanation that the young man had died of a heart attack. On 9 February 1985, Gonzalo Rovira, the leader of FECH, had been sent into internal exile at Chonchí. The reason for the arrests was to demoralize and break up democratic organizations. However, the institutionalized repression served only to strengthen young people in their resolve to play their part in building the society of the future, which would be totally unrelated to the present régime. ISMUN hoped that the Commission would continue to monitor the situation in Chile and urge the military authorities to respect human rights.

12. Mr. GAY (Pax Romana) welcomed the draft resolution before the Commission (E/CN.4/1985/L.49). His organization had received a detailed report on the situation from a delegate whom it had sent on a special mission to Chile. He wished to repeat his organization's view that the recognition of certain rights in constitutions or fundamental laws approved by plebiscites organized under intimidation were a mere caricature of the law and the rule of law. If, as in Chile, there were also transitional provisions, states of emergency and secret laws published in confidential annexes of the Diario Oficial, then legislation became an instrument of arbitrary terror.

13. After the reimposition of the state of emergency (A/39/631, para. 29), the Government's attacks on the civilian population had taken the form of surprise raids and arbitrary arrests at any hour. According to reports from the Pax Romana delegate, the Carabineros had recently arrested 39 people, 35 of whom had been brought before the courts after 12 days, thus infringing the maximum period allowed for police arrests; only three had been released and one of them had died as a result of torture. There was evidence of farcical trials of civilians by military courts which lasted only one day from the preliminary inquiries to the pronouncement of sentence; in some of them, in order to give the court legal competence, those charged had been classified as subaltern officers. The practice of internal exile continued and, in November 1984, 276 persons had been banished, 14 of them having been tortured. The state of the prisons visited by his organization was indescribable and many prisoners, who were ill as a result of torture were kept in insanitary conditions without medical assistance. Through the intervention of the United Nations, however, the special statute whereby political prisoners who had been dispersed were not allowed visits from their relatives had been repealed.

14. Repression continued to be exercised by decree and by paramilitary bodies and unofficial organizations comprising members of security forces, such as the "Catacomb Committee", who conducted their criminal activities with total impunity. The Government was pursuing a policy of apartheid in that it isolated the majority of the poor by subjecting them to selective repression, particularly those sectors most involved in the democratization of the country. He urged the Commission and all member States to take vigorous measures to enable Chile to rejoin the democratic countries.

15. The CHAIRMAN suggested that, in view of time constraints, a limit of 10 minutes should be imposed on statements by representatives and 7 minutes on statements by observers.

16. It was so decided.

17. Mr. DO TAT CHAT (Observer for Viet Nam) said that Chile was a typical example of a country with a Fascist and dictatorial régime which trampled human rights underfoot. His delegation shared the views of preceding speakers about the deplorable situation there. Recently, human rights violations had become even more serious owing to the economic situation. The Times had rightly stated that few countries could show more eloquent indicators of recession. In 1984, the Chilean trade deficit had amounted to $US 2 billion. Industrial production had fallen by half and 30 per cent of the economically active population were unemployed. Nevertheless, the military régime showed no intention of stepping down and General Pinochet had announced his intention of staying in power for the rest of his life.

18. An unprecedented feature of the national days of protest, which had been organized nearly every month since May 1984, had been the participation of all social classes and opposition political parties. Faced with that situation, the military Government had resorted to increasingly barbaric acts: on 1 May 1984, at least 100 people had been wounded and dozens arrested in Santiago, according to Le Monde of 3 May 1984, and in the space of only two weeks in November, over 1,400 people had been arrested. In fact, the Government was continuing to apply a policy of State terrorism against individuals and groups. It was well known that the Government was able to stay in power only through assistance in all fields from certain Western countries, particularly the United States of America. That country, having been instrumental in the overthrow of the Government of Salvador Allende, had never ceased to support the present régime, while its highest functionary openly stated his intention of driving out the Sandinistas - the legitimately elected Government of Nicaragua. His delegation reiterated its whole-hearted support for the struggle of the gallant Nicaraguan people and the efforts of the Nicaraguan Government to achieve an over-all political settlement in the region.

19. Reverting to the topic of Chile, he said that the United States consistently attempted to persuade public opinion that the human rights situation in Chile was improving. However, its efforts were nullified by harsh facts, as the Human Rights Committee had testified during its consideration of Chile in October 1984. Viet Nam, in association with many other countries, expressed its continued solidarity with the Chilean people in their struggle to restore democracy. The international community must strengthen its support for the Chilean people and continue to condemn in all its forums the dreadful crimes of the military dictatorship. Any efforts by the Western Powers to rescue the present régime in Chile only served to prolong the deplorable conditions in that country and should be severely censured.

20. Mr. CZEMPINSKI (Observer for Poland) said that the 12 horrid years of Pinochet's Government Junta had been an uninterrupted sequence of repression, arrests, violence and physical and psychological terror against its political opponents. The most recent report on human rights in Chile (A/39/631), like the previous reports, was another gloomy record of the Junta's achievements, which could be summed up in the conclusion that the protection of fundamental human rights and freedoms had continued to deteriorate (para. 391).

21. Mr. SCHIFTER (United States of America), speaking on a point of order, said that the Government of Poland was never referred to as the Jaruzelski Junta. Appropriate terminology should also be observed in the case of Chile.

22. The CHAIRMAN said that, as a matter of international courtesy, speakers should refer to a Government recognized by the United Nations as a Government. He requested all participants to comply with that ruling.

23. Mr. CZEMPINSKI (Observer for Poland), continuing his statement, said that the Special Rapporteur had compiled evidence which proved that hardly any of the rights of the Chilean people were respected, including the fundamental right to life. Between December 1983 and July 1984 alone, 46 civilians had lost their lives and 93 had been injured. Torture and other cruel treatment were being employed on an increasingly wide scale, and in the first half of 1984, in Santiago alone, 165 acts of persecution and intimidation had been reported. It was suggested in the report that such intimidation was directed against prominent persons or institutions and formed part of a systematic policy of discouraging political dissidents. When in 1981 a new Constitution had come into force, the institutionalized state of emergency had led to the breakdown of the rule of law and to a permanent pattern of totalitarian rule. Such a situation had increased the desire of Chileans as evinced through their national protests, to recover the right to participate in political life and restore the traditional democratic order.

24. The Pinochet Government could not have continued to defy international public opinion without the support of the United States. Almost all the Members of the United Nations, with the exception of that country, had condemned the Government of Chile for its ruthless policies of harassment and persecution of the Chilean people. The United States Government had its own interests, which determined Chile's present position. The question of human rights in that country called for further attention from the Commission and Poland had accordingly voted in favour of General Assembly resolution 39/121.

25. Ms. REY (Amnesty International) said that since the first half of 1984, which was covered by the report of the Special Rapporteur (A/39/631), her organization had recorded many serious instances of human rights violations directed against most sectors of Chilean society, from shanty-town dwellers to members of the Church. Such violations had been facilitated by the continuing enforcement of emergency legislation. The systematic torture of detainees in Chile had also continued unabated in recent months and at least two people were reported to have died under torture, namely, Juan Aguirre Ballesteros, whose arrest was denied by the authorities and who had "disappeared" until his mutilated body had been found, and Mario Fernández López, a member of the Christian Democratic Party, who had died in hospital after being transferred from a CNI detention centre. No one had yet been arrested in connection with the killing of Juan Aguirre but in the case of Mario Fernández, a civilian judge initially undertaking the investigation had concluded that there was prima facie evidence to commit two CNI agents for trial and had ordered their detention. However, a military judge had later ordered their immediate release on the grounds of insufficient evidence. In the early weeks of

1985, the deaths of two more detainees (Carlos Godoy and Patricio Manzano) had been reported to Amnesty International; the circumstances of their deaths strongly suggested that they had been the direct result of torture or other ill-treatment. The way that investigations into complaints had been handled by the authorities indicated that torture was in fact condoned at the highest levels of the Chilean Government.

26. When the state of siege had been declared in November 1984, the Minister of the Interior had stated that it would only affect terrorists. However, thousands of people living in shanty-towns had subsequently been detained in operations involving all branches of the security forces. Stadiums had been used to hold and interrogate those arrested. Most had later been released, but several hundred had been banished to remote parts of the country for three months without charge or right of appeal to the courts; such persons included dozens of community leaders whom Amnesty International regarded as prisoners of conscience. Three doctors known for their work in rehabilitating torture victims and several lawyers who specialized in the defence of political prisoners had also been sentenced to internal exile.

27. An alleged ex-member of the security forces, Andrés Valenzuela Morales, had made statements in December 1984 about the fate of some 650 detainees who had "disappeared" since 1973. He had said that many of them had been shot and buried in clandestine graves and others had been drugged and thrown from aeroplanes into the sea. His testimony had been handed over to the Supreme Court in December, but the Court had rejected a petition to appoint a special examining magistrate. Amnesty International thought that Valenzuela's allegations should be subjected to an independent investigation by the Chilean authorities. Refusal to clarify the fate of the disappeared further prolonged the sorrow of the affected families. Amnesty International was concerned that, during 1984, death sentences had been recommended for 17 prisoners, 15 of whom had been accused of politically-motivated crimes. Two executions had recently taken place in Chile.

28. The situation disclosed by the available information was serious and, in Amnesty International's view, the competent organs of the United Nations should treat the problem accordingly.

29. Mr. Khmel (Ukrainian Soviet Socialist Republic) took the Chair.

30. Mr. LECHUGA (Observer for Cuba) warned that he might well refer to the Government of Chile as the "Junta" since that was its official title, as used in Chilean legislation and the Constitution. In order to avoid the use of the term, the United States representative would have to request a change in the Chilean Constitution, a task which might not prove too difficult in view of the relations between the United States and the Pinochet régime.

31. The interesting point about the unsurprising news that at the end of 1984 three states of emergency had been in force in Chile was that after 11 years of military dictatorship the régime was more fragile than ever and had to resort to anti-popular measures to hold back the rising tide of revolt throughout the country. In 1984, there had been 39,429 arrests - a sharp increase over the previous four years. There were many more political prisoners than in 1983. But perhaps the Chilean régime was not all that bad: in 1984 the military authorities had tortured only 1,810 citizens as against 1,991 in 1983. That statistic betokened the improvement in the human rights situation which had won a good-conduct certificate from the Department of State. The situation in Chile was very similar to what it had been at the beginning of the military dictatorship, but living conditions had greatly deteriorated. Chile continued to be a country occupied by its own armed forces, for the benefit of a small minority and their foreign backers.

32. The United States representative, in what was almost an apologia for the democracy of General Pinochet, had said that the process of normalization would continue until 1989. To regard the prospect of the genocidal régime remaining in power another four years as a positive element seemed like a bad joke, but a closer look at the actual legal provisions showed that it was likely to be a cruelly true joke. It had been established by one of the transitional provisions of the 1980 Constitution that when the first period of presidential rule came to an end in 1982, the Government Junta would designate Pinochet's successor who might, by way of exception, be Pinochet himself. The nomination would have to be ratified by a plebiscite organized by the Junta. If the plebiscite was unfavourable (an almost impossible outcome under the conditions prevailing in Chile), the military Junta would remain in power for a further year and then elections would be held. However, a basic section of the population would not have the right to vote on the grounds that they were guilty of ideological dissent. In any case, the Junta, as the constituent power, could at any time annul the Constitution. In 1990, parliamentary elections would be held. However, a third of the Senate would be appointed, not elected; the commanders-in-chief of the armed forces and the director of the Carabineros would be ex officio members; and Pinochet, as ex-President, would be a life member. Such was the representative democracy that the representative of the United States had invoked as an example to be followed. The arrangements might well be laughed off as a joke, except that they had United States support. The Commission must keep the Chilean case under more vigilant review than ever; the mandate of the Special Rapporteur should accordingly be extended.

33. Mrs. SLAMOVA (Observer for Czechoslovakia) said that the pessimistic conclusions of the Special Rapporteur's report A/39/631 had been reflected in General Assembly resolution 39/121, which expressed the profound concern of the international community at the situation in Chile. All information showed that the Pinochet régime was one of violence and death. It could not have clung to power for so long against the broad opposition of the people without external support from imperialism. Her delegation wished to pay a tribute to the work done by the Special Rapporteur under difficult circumstances. It hoped that the Commission would continue to give the situation in Chile special attention and would authorize further work by a special rapporteur.

34. Mrs. MAYA (Women's International Democratic Federation) pointed out that during 1984 people had been arrested in Chile at the rate of five every hour. The military authorities had beaten all their previous records. Under Decree-Law No. 3,655 re-establishing wartime courts martial, the death penalty had been demanded for three individuals. The ordinary military courts had also asked for the death penalty for other political prisoners. The death sentences passed by the two types of military courts involved 15 people, including Myriam Ortega Araya and Cecilia Rodrigán Plaza. Her organization called for the immediate suspension of the sentences and a just and fair trial for all persons threatened by the death penalty.

35. Her organization was also concerned about missing political prisoners since none of the efforts made by their relatives had met with a response. Her organization therefore condemned the refusal of the Chilean Supreme Court to appoint a judge to examine the statements made to the press by a former agent of the air force intelligence services, Andrés Antonio Valenzuela Morales, who had confessed to participating in the arrest, torture and disappearance of a number of political detainees now classified as missing. The Chilean Supreme Court had thus precluded the possibility of clearing up the case of a number of missing persons. The Special Rapporteur's excellent report (A/39/631) covered the situation up to June 1984.

Since then the proclamation of the state of siege had caused the human rights situation to deteriorate. The state of siege had given the military régime extensive powers of detention and censorship, including the right to patrol and occupy strategic points and to seal off entire districts for searches. During such operations, which had recently become very frequent, the armed forces in combat dress, with blackened faces, were supported by the air force, which used parachutists. The institutionalized repression in Chile was directed by the CNI, which had special units to take action against specific social sectors, such as political leaders, trade union movements, slum-dwellers, the Church, teachers and university students, and public demonstrations by the opposition.

36. There had been three recent cases which had particularly stirred public opinion. The first was that of Juan Antonio Aguirre Ballesteros, a young workman arrested in Santiago, whom the authorities had denied detaining and whose mutilated body had been found some weeks later. The second case was the murder of the French priest, André Jarlan: after several refusals by the authorities, a ballistic examination had finally been permitted and proved that the fatal bullet had been fired by a carabinero. The third case was that of the 20-year-old María Marcia Miranda Díaz, who had been arrested at the church where she worked and tortured, with the object of securing testimony that the church priest had weapons in his possession. She had been rearrested and tortured no less than three times and, on being threatened with a fourth arrest, had committed suicide by dousing her clothes with petrol and setting fire to herself. In view of the situation in Chile, her organization requested that the mandate of the Special Rapporteur should be renewed and that the Commission should give due priority to the question at its next session.

37. Mr. LEBAKIN (Ukrainian Soviet Socialist Republic) observed that the human rights situation in Chile could only be considered in conjunction with the causes which had led up to it. In his view, the main cause was what was nowadays rightly referred to as the policy of State terrorism. In 1973, it had taken the form of a Fascist putsch, in which some 30,000 Chileans had lost their lives. The purpose of the putsch had been to replace Allende's democratic Government of national unity and return the country to economic domination by United States monopolies. Even according to official United States figures, $8 million had been channelled through the CIA to finance the plot against the legal Government. In a word, the corporate totalitarianism of the United States had brought to power the Fascist totalitarianism of Pinochet and throughout the succeeding years the military régime had held on to power thanks to the support of those who had once again resumed control of the fabulously rich copper mines that had been nationalized by the Allende Government. During all those years, the dictatorship had been waging a civil war against its own people.

38. Photographs taken since the latest declaration of the state of siege showed scenes reminiscent of 1973: carabineros and mounted units patrolling the streets, and thousands of detainees being herded into stadiums in Santiago. According to data from the Catholic Church in Chile, in 1984 over 5,000 persons had been arrested and gaoled, but the Chilean Human Rights Commission put the figure at nearer 15,000. However, the Fascist régime was sitting on a volcano. The opposition and anger of the people were being increasingly manifested through days of national protest, and the tyranny of the authorities had finally put an end to the illusions of those who, under the influence of fallacious propaganda, had believed in the possibility of liberalization. Widening social sectors were taking part in anti-Government demonstrations. Moreover, Pinochet's anti-popular policy had brought the country to the verge of bankruptcy: half of the economically active population were unemployed and, according to official figures, the price of food had increased by over 400 per cent over the preceding seven years. Chile's foreign debt had risen to $US 20 billion, while the dictatorship continued to spend 43 per cent of the national budget on the army.

39. Recent events had shown that any reforms in the upper echelons of the Fascist régime were not adequate to ease the serious political, social and economic crisis in Chile. The dictator and his United States supporters hoped to solve the crisis by further intensifying repressive measures, but repression simply highlighted the contradiction underlying the crisis and serve to confirm the conclusion of leftists that Pinochet and his henchmen would never step down of their own free will but only as a result of a decisive national struggle which led to the restoration of democracy. The Commission should again condemn the increasing terror and mass human rights violations in Chile and demand an end to the state of siege. The newly-appointed Special Rapporteur, in collaboration with the secretariat, should start implementing the mandate contained in General Assembly resolution 39/121.

40. Mr. GONZALES (International Indian Treaty Council) noted that in spite of many United Nations resolutions, the Chilean military authorities continued to maintain privileged relations with South Africa. On arrival as ambassador in Chile, the former commander-in-chief of the South African Air Force, Antoine Michael Müller, had referred, in response to a welcoming address from General Pinochet, to the expansion of the links which had developed over recent years between South Africa and Chile.

41. His organization was particularly concerned about the human rights situation of the indigenous population. Since the coup d'état in 1973, there had been no administrative or legislative means of guaranteeing the particular and specific rights of the indigenous peoples in Chile. On the contrary, Decree-Law No. 2,568 of 1979 had divided the ancestral territories of the Mapuches, and the United Nations had received reports since 1980 of the methods used by government officials to implement that enactment: deception, false promises or simply police action. The aim of dividing Mapuche land was to destroy the physical and cultural identities of the Mapuches, based on age-old common ownership of land. AD MAPU, the organization representing the Mapuches, and international Indian organizations had unsuccessfully requested the repeal of the Decree-Law.

42. In 1984, the AD MAPU leaders had complained that traditional games and religious ceremonies had been banned by the military authorities. Furthermore, the President of AD MAPU, José Santos Millao, and Domingo Jineo had been banished for 90 days to isolated localities in northern Chile. During 1984, Mapuche leaders had received over 50 death threats and the AD MAPU headquarters had been subjected to frequent searches. The most recent, which had occurred on 3 January 1985, had been conducted by at least 50 individuals, including CNI agents, armed and hooded groups, and civil police agents. Money and office supplies had been stolen and 12 leaders attending a meeting had been arrested. They had been released shortly afterwards in the absence of grounds for holding them. On 11 January 1985, however, the Ministry of the Interior had again ordered the banishment of José Santos Millao, together with Rosamel Millamán Reinao and Domingo Marileo Toledo, to different areas in northern Chile. A regional leader of AD MAPU, Manuel Pilquil Tarupil, had also been sentenced to banishment on 18 January 1985.

43. His organization urged the Chilean authorities to put an end to torture, free political prisoners, suspend the death sentence and respect the right of exiles to return to their own country. In addition, it requested the Commission to renew the mandate of the Special Rapporteur and to consider the situation of human rights in Chile at its next session as a matter of priority.

44. Mr. KISS (Observer for Hungary) said that the international community could not remain indifferent to the alarming situation which had prevailed for over a decade in Chile. As a matter of principle, his Government strongly condemned the institutionalized terror and social repression practised by the Chilean authorities, which did not respect one single human right. The use of the most sophisticated methods of torture was increasing, and arbitrary imprisonment and inhuman treatment of prisoners were everyday occurrences. His delegation felt impelled to point out that the growing opposition to the régime in Chile coincided with a significant increase in financial and economic assistance to it from those circles which were prone to overlook even the most serious human rights violations when their own political or strategic considerations were at stake. He was convinced that such assistance would only serve to prolong the tragic situation of the long-suffering Chilean people. His delegation supported the appointment of a new special rapporteur as proof of the determination of the Commission to adopt effective measures to put an end to the massive violations of human rights in Chile.

45. Mrs. COLL (Ireland) said that one of the most disheartening aspects of the human rights situation in Chile was the meticulousness with which the present legal order had been systematically reinforced. The situation had deteriorated rapidly in the latter months of 1984. For the first time in several years, the authorities had taken direct action against the Vicaría de la Solidaridad, the human rights office of the Catholic Church, by refusing to allow its head, Monsignor Ignacio Gutierrez, to re-enter Chile after a journey to Europe. He had joined the thousands of Chileans who were denied the right to return to their country, another aspect in which the human rights situation had deteriorated, as could be seen from the fact, mentioned by the Special Rapporteur (A/39/631, para. 212), that the Ministry of Defence had given the airline operating in Chile a list of 4,860 persons of Chilean nationality to whom tickets should not be sold without prior clearance.

46. Her delegation wished to express its revulsion at the fate of Juan Aguirre Ballesteros, whose case was one of a growing number of unacknowledged detentions. It was feared the case might herald a recurrence of disappearances of detainees, which was an alarming prospect in view of the fact that Amnesty International had documented some 650 cases of disappearances after arrest between 1973 and 1977 which had not yet been cleared up.

47. Many of the very wide powers vested in the President under the state of siege had already been available to him under the state of emergency and the state of danger of disturbance of internal peace. Nevertheless, the statements made shortly before the state of siege had been proclaimed had made it clear that there had been a hardening of the attitude of the Chilean authorities towards democratization. President Pinochet had confirmed that presidential elections would not be held before 1989 and that the law legalizing the organization of political parties would not be promulgated earlier than was necessary for the presidential elections with the participation of parties, elections which, according to the Constitution, were scheduled for 1997. It was nothing short of tragic that a country of democratic traditions which was a party to the International Covenant on Civil and Political Rights should adopt such an attitude in the absence of a real threat to its existence. Her delegation also deplored the fact that the Chilean authorities were persisting in their refusal to co-operate with the Commission.

48. Mr. ALVARADO (Nicaragua) recalled that in his statement (E/CN.4/1985/38) introducing his report on the situation of human rights in Chile to the Third Committee, the Special Rapporteur had said there were grave risks that it

would become far worse than could be imagined at present unless appropriate measures were taken. There had been no change in the factual or legal and institutional situation since that date: all the states of emergency imposed in 1984 remained in force and to them had been added the Constitutional Tribunal's declaration, on 31 January 1985, of unconstitutionality affecting a large sector of the opposition. Events in Chile showed the double standards which the United States Administration applied on the Latin American continent. While, on the one hand, Mr. Motley, the Under-Secretary of State for Foreign Affairs, had announced after a recent visit to Chile that it was in good hands and that the solution of its problems should be left to the Chileans themselves, President Reagan applied another standard to Nicaragua, attacking its right to self-determination and stating his intention of removing the legitimately constituted Government.

49. With regard to the prospect of a return to democracy, which had been voiced during the discussion, the answer had already been given by the Special Rapporteur in his statement to the Third Committee: he had observed that the present legal order in Chile was characterized by three levels of derogations from the country's own Constitution. The result was that inalienable political rights were withheld until 1989, when the new President was to be designated by the commanders-in-chief of the armed forces and the Carabineros or, failing agreement between them, by the National Security Council, subject to ratification by referendum. Consequently, it was not certain that presidential elections would be held in 1989. It could not even be affirmed at the present time that the constitutional provision establishing the continuation of the régime in 1989 would be in force at that date since, according to the 1980 Constitution, constituent power lay with the Government Junta, which could derogate from the relevant article as and when it chose. In the best of cases, the presidential election would not be free and secret, but subject to a mechanism for succession which left the Chilean people on the sidelines.

50. His delegation saw no immediate prospect of an improvement in the human rights situation in Chile. It therefore considered that the mandate of the Special Rapporteur should be extended so that the Commission and the General Assembly could make an appropriate contribution to the restoration of democracy in that country.

51. Mr. OGURTSOV (Observer for the Byelorussian Soviet Socialist Republic) said that the situation in Chile was a matter of concern for all of progressive mankind. There had been many appeals - supported by Member States of all geographical groups and belonging to different political and economic systems - to the Chilean authorities to restore fundamental human rights and to release persons arrested without trial or charge or for political reasons. The continuing terror was an inseparable part of the entire economic life of the country, in which, following the illegal seizure of power by the military junta with the direct connivance of the United States, political rights had been trampled underfoot for more than 11 years. The latest report on the situation (A/39/631) contained a wealth of information about the most recent crimes committed by the Fascist junta. From that report it was clear that the junta had made no move to respond to United Nations resolutions; on the contrary, terror had been stepped up. Its disregard of appeals to investigate disappearances and punish those responsible constituted a challenge to the international community.

52. The massive violation of major social and economic rights had led to great deprivation among working people. Over the preceding 10 years, the Chilean authorities and their sponsors had managed to wreck the economy. The volume of industrial imports continued to fall, inflation was rampant and the unemployment rate had reached 25 per cent.

53. His delegation fully supported the proposal that the United Nations should continue to devote attention to the situation in Chile and adopt appropriate measures to compel the Chilean junta to cease its evil activities against its own people.

54. Mr. LAURIJSSEN (International Confederation of Free Trade Unions) said that the range of so-called threats to public order mentioned under the state of siege created a dangerous precedent for removing from the jurisdiction of the ordinary courts many types of human rights abuses committed by the Government. Nevertheless, it had not been able to control social mobilization, which had continued to gain momentum throughout 1984 with national protest days and, on 30 November, a successful national strike. The authorities had reacted with outrageous violence against such demonstrations, and trade union leaders and activists had paid a heavy toll. Furthermore, trade union members and their leaders belonging to organizations not recognized by the régime continued to be the victims of arrests, detention, torture and disappearances, while many trade union offices had been ransacked. In November, raids had been carried out on the Confederation of Construction Workers, the Federation of Agricultural Workers, the Miners' Federation and three rural workers' organizations. In all cases, CNI agents had destroyed files, while furniture and equipment had been removed. Trade union leaders present had been arrested: some had returned after being tortured, while others had been banished or were still missing.

55. The authorities frequently banished trade unionists to remote parts of the country. In December alone, his organization had been informed of a number of such cases: they included the leaders of the building workers' union, the teachers' union and the taxi drivers' union in Arica; the leaders of the taxi drivers' union and the fishermen's union in Iquique, and nine trade unionists in the Concepción area belonging to the regional trade union co-ordinating committee and the building workers' union. In violation of article 9(4) of the International Covenant on Civil and Political Rights, which Chile had ratified, all the persons concerned had been banished without charge or trial or the right of appeal.

56. It might be wondered how much further a Government could go to keep its population in a permanent state of terror. Moreover, the dictatorship was inefficient. Security was generally non-existent, the economy was ruined, basic social amenities had been dismantled and the unemployment rate, at close to 40 per cent, was one of the highest in the world. The working population lived in misery, and the middle class and business community despaired of their role in a bankrupt society. The only achievement of the Pinochet régime was that it had kept itself in power.

57. His delegation trusted that the Commission and Special Rapporteur would continue to contribute effectively towards co-ordinating and strengthening a world-wide campaign of all democratic forces to bring an end to the sufferings of the Chilean people.

58. Mr. ARTUCIO (International Commission of Jurists) said it was evident from the information received by his organization from March 1984 to date, in conjunction with the information provided by Chilean human rights organizations, that there was systematic and repeated negation of fundamental human rights in Chile. Chilean

legislation was based on an authoritarian concept and was designed to provide the Government with all the necessary instruments to repress any form of opposition. It did in effect constitute, as the Special Rapporteur had stated (A/39/631, para. 37), a breakdown of the rule of law. Under the 1980 Constitution, the executive was empowered to proclaim a state of emergency in the most diverse circumstances. As the powers of the Government increased, so did the degree of repression, as illustrated in the number of arrests during 1984, particularly in association with the national protest days. The Chilean Human Rights Commission had stated that the repression had even exceeded the régime's legal powers. The Government continued to refuse several thousands of exiles the right to live in their own country. The former deputy, Luis Guastavino, had not only been refused entry into Chile from Argentina, but had been beaten up, together with his companions, by security forces in the presence of a number of Argentine parliamentarians.

59. Freedom of expression and information had been restricted by the closure of newspapers, periodicals and broadcasting stations. Persons active in the field of human rights and in trade union, cultural and political circles had been greatly affected by internal banishment orders. Economic, social and cultural rights had been drastically curtailed. The right to work had virtually disappeared; it was not mentioned as a right in the 1980 Constitution except through legislation which discriminated against the worker in favour of the employer. The official unemployment rate of 24 per cent was an eloquent indication of the real state of affairs in Chile. As stated in ILO reports, trade union rights, particularly the right to form trade unions, to bargain collectively and to strike, had been abrogated. The rights of the indigenous communities had been reduced almost to vanishing-point and they had been subjected to overt discrimination by the authorities.

60. His organization considered that the Commission and other competent United Nations bodies should continue to pay careful attention to the situation in Chile: it was convinced that the Commission's influence had been successful in moderating certain repressive practices of the Chilean régime. It was to be hoped that the Commission would in future support efforts within Chile itself to restore democracy and the full enjoyment of human rights.

61. The CHAIRMAN announced that consideration of agenda item 5 had been concluded.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION; ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS; NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (E/CN.4/1984/73; E/CN.4/1985/16, 42; A/39/556 and Add.1)

62. Mr. HERNDL (Assistant Secretary-General for Human Rights), introducing agenda item 11, recalled that it had been under consideration by the Commission for a number of years, in parallel with consideration by the General Assembly of an item on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. As a result of discussions in the Assembly and the Commission, a number of issues had already been addressed. The implementation of the human rights programme had been given impetus by Assembly resolution 32/130. On the recommendation of the Commission, the

Economic and Social Council, by resolution 1979/36, had increased the membership of the Commission and had approved the prolongation of its sessions to six weeks. It had also made a number of other suggestions to the Commission, which the latter had repeatedly discussed both at its plenary meetings and in a special working group.

63. By way of introduction to the agenda item, he wished to refer to certain passages in an important address on internationalism and human rights which the Secretary-General of the United Nations had delivered in Quebec on 8 March. The passages reviewed what remained to be done in future by the United Nations in the field of human rights. The Secretary-General had stated that the key challenge which faced the international community was that of the "implementation" of human rights. The basic international instruments in the field, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, must be universally ratified, and once a State had ratified them, every possible means must be employed to assist it to implement the international obligations to which it had subscribed. In that regard the advice and recommendations of supervisory bodies, such as the Human Rights Committee, were of importance. But, the Secretary-General had continued, the United Nations must go further and international co-operation must be increasingly geared to provide practical forms of assistance to States to enable them to comply with their international obligations. Advice must be made available in the various regions and subregions of the world. In that connection, he had submitted to the Commission at its current session proposals for the development of technical assistance in the field of human rights (E/CN.4/1985/30) relating to the preparation of national legislation consistent with international human rights standards, the preparation, submission and follow-up of reports to international supervisory bodies and the development of national and local institutions to promote and protect human rights. He had requested the Centre for Human Rights to pay increasing attention to the matter and to seek in the future to act as a channel for such technical assistance.

64. The Secretary-General had further stated that gross violations of human rights must always receive priority attention and that the United Nations system must persist in its efforts to increase the effectiveness of its methods in that area. Just as early warnings and urgent responses were important in United Nations peace-keeping activities, so it was imperative that responses to situations of gross violations of human rights should come at the earliest possible moment in order to avoid human suffering. The question of urgent reaction deserved to be given attention. Lastly, the Secretary-General had said that the United Nations must insist on two points, namely, that the international standards of conduct contained in the Universal Declaration of Human Rights and the International Covenants were applicable to, and binding upon, all societies without exception, and secondly, that while regional efforts could provide for higher levels of protection than those contained in the universal instruments, they could never diminish the level of protection provided in the international instruments he had mentioned.

65. Mr. QUINN (Australia) urged members of the Commission to ensure that at future sessions the work schedule was adhered to so that agenda item 11 could be given greater attention. His delegation took a special interest in the item and had been closely involved in the adoption of Council resolution 1979/36, which established a co-ordinating role for the Commission in the field of human rights in the United Nations system.

66. In his delegation's opinion, there was no room for complacency in viewing the situation of human rights throughout the world. It was therefore hard to understand the resistance in some quarters to any suggestion of innovation in the United Nations machinery for dealing with human rights questions. Clearly, alternative ways and means must attract the widest possible agreement, but a sense of urgency was required in seeking to accommodate differing views about them. His delegation supported the development of an intersessional capacity which would enable the Commission, through its Bureau, to respond appropriately to emergency situations. But there was scope for vigorous action through many channels.

67. Public information activities were of particular importance. It should be recognized that United Nations efforts in the field of human rights were both different from, and more significant than, its other public information activities because the exercise and defence of human rights depended upon knowledge of those rights among the public at large. Regional arrangements for the promotion and protection of human rights had proved their value since they allowed the subject to be discussed productively and often in a less political atmosphere than in global forums. In the Asia and Pacific region, consideration of regional arrangements was still at an early stage. Australia hoped that contacts between the countries of the region would be strengthened and would gladly participate in them. Given the size and diversity of the region, it might also be useful to examine the possibility of subregional arrangements. It would be appropriate for the Commission to express its support for efforts in the region to build on action already taken and on the common commitment to the universal standards of human rights established by the United Nations.

68. His delegation would also like the Commission at future sessions to give systematic attention to the criteria which should be applied when new concepts were put forward as "rights". In view of the moral force of the concept of human rights, it was tempting to use it in order to support ideas which had little in common with the traditional or legal definition of human rights. His delegation was not opposed a priori to the identification of new human rights, but proposals in that area must be consistent with the framework of the Charter and the relevant international instruments. Criteria to be applied in assessing proposals might include the following: the concept must reflect a fundamental, human and social value; it must be applicable in an intelligible way to different value systems; it must be consistent with, and not merely repetitive of, the existing body of international human rights law; it must be sufficiently precise to give rise to identifiable and practicable rights and obligations; and it must be capable of achieving a very high degree of international consensus.

69. Ms. BOJKOVA (Bulgaria) said it must always be borne in mind that international co-operation, to which all States Members of the United Nations were committed, was a sine qua non for improving the enjoyment of human rights. Article 55 of the Charter linked the promotion of human rights to the creation of conditions of stability and well-being necessary for friendly relations among nations; and recently, in a development which proved the creativity of the United Nations system, that concept had been broadened to include moral and material aspects.

70. Against that background, her delegation was guided by five main principles in its approach to agenda item 11. The first principle was that peace was the prime requisite for guaranteeing human rights; without peace, human rights were no more than empty words. Secondly, human rights were indivisible and interdependent, as had been recognized by the General Assembly in its resolution 32/130. However,

the practice of many States negated that principle to a large extent. Thirdly, priority attention should be given to efforts to combat flagrant violations of human rights. There could be positive co-operation among States in the field of human rights only if the fundamental principles of international law, including respect for the sovereign equality of States and non-interference in their internal affairs, were strictly applied. Questions regarding the implementation of human rights ceased to be an internal affair if those rights were systematically and massively violated so that friendly and peaceful relations with other States were jeopardized. It was well known that such violations of human rights resulted from the policy of apartheid, racism, colonialism, denial of the right of colonial peoples to self-determination and independence, and the denial of the right of every nation to exercise full sovereignty over its own natural resources. Fourthly, as stated in General Assembly resolution 32/130 the establishment of a new international economic order was a prerequisite for the effective promotion of human rights. Fifthly, international co-operation could be promoted only on the basis of the Charter.

71. Her delegation believed that the quest for alternative ways and means within the United Nations system should be aimed at improving the existing system, which offered wide possibilities for international co-operation in the field of human rights. In deploring the present human rights situation, her delegation regretted that the existing system was not always used in the most effective way. Obviously, there was a need for United Nations human rights bodies to pay more attention to eliminating racism and apartheid and to gross violations of social and economic rights. In that regard, it was promising that the United Nations had started to devote more attention to the material aspects of human rights, including, for example, the right to development and the right of peoples to life.

72. Against that background, her delegation had difficulty with any concept which sought to divert the Commission's attention from its real task. Such concepts were aimed at finding alternatives to the Charter itself and thus diminishing the role of the existing United Nations system in the field of human rights. The pioneering work of the United Nations in standard-setting through the formulation of international human rights instruments was a matter of record. It had been achieved through broad international co-operation within the framework of the United Nations and the elaboration of new draft conventions still continued. An impressive number of bodies had been set up in pursuance of international human rights instruments, thus expanding the basis for co-operation among sovereign States which had, of their own free will, assumed certain human rights obligations. The aim must now be to ensure that such instruments were more universally ratified and strictly complied with.

73. Her delegation reaffirmed its view, that among the bodies dealing with human rights, the Commission was certainly one of the most important. Positive results had been achieved in the survey of its activities which had been conducted for several years within an open-ended working group. Since her delegation was vitally interested in improving the Commission's work, it was in favour of extending the mandate of that group. In conclusion, she wished to stress her delegation's deep conviction that the way to improve the effectiveness of the United Nations system was not through the creation of new bodies, but rather through the strengthening of existing ones.

74. Mr. Choudhury (Bangladesh) resumed the Chair.

75. Mr. JAYEWARDENE (Sri Lanka) said that his country's programme for promoting human rights was co-ordinated by the Human Rights Centre of the Sri Lanka Foundation. With assistance from UNESCO, Sri Lanka had included the subject of human rights in all levels of education up to a master's degree in international law. The Sri Lanka Foundation had organized several seminars, including the 1982 United Nations regional Seminar on law enforcement agencies. As a result of that Seminar, arrangements had been finalized for establishing an organization for the protection of human rights through such agencies. With the co-sponsorship of the Henri Dunant Institute, a seminar had been scheduled for March 1986, to which representatives of the Asian Group would be invited, on the subject of human rights and humanitarian law. In the protection of human rights in Sri Lanka, a vital role was played by the appointment of a parliamentary commissioner and the entrenchment in the Constitution of a justiciable chapter on fundamental rights. Under those provisions, any alleged or imminent violation of human rights could be the subject of proceedings before the Supreme Court. The allegation must be investigated and any grievance established must be redressed within three months.

76. His delegation had taken the initiative on regional arrangements for the promotion and protection of human rights in the Asian region at the United Nations Seminar held in Colombo in June/July 1982. A study had shown that regional arrangements were more effective in that regard than institutions of a universal character. The Asian and Pacific region did not as yet possess such arrangements and some participants in the Seminar had voiced difficulties about the establishment of protection-oriented machinery, but there had been a consensus in favour of a promotional arrangement emphasizing education and training. One constructive recommendation had been for the dissemination of basic international human rights instruments in the various languages used in the region and the establishment of a central depository for United Nations documents.

77. The recommendations had been discussed at a seminar of governmental experts held in Geneva in 1983, and the General Assembly, in resolution 37/171, in taking note of the report of the Colombo Seminar, had requested the Secretary-General to invite comments from the Governments of the region. Sri Lanka had already made its comments but he wished once again to indicate its support for the establishment of regional arrangements for the promotion of human rights, including a centre for the dissemination of human rights materials. There was a need for human rights materials in the languages used in the region, which should be reinforced by audio-visual material aimed at people at the grass-roots level. Sri Lanka had a national structure, but it needed the support of the United Nations system. He endorsed the conclusion in chapter IV of the Secretary-General's report (A/37/422).

78. Mr. YAKOVLEV (Union of Soviet Socialist Republics) commended the working group which had brought about practical improvements in the activities of the Commission. Its mandate must unquestionably be renewed at the next session. He fully supported the soundly-based views of the Bulgarian representative, which should be heeded by all members of the Commission.

79. Most of the ideas expressed in the Secretary-General's address on internationalism and human rights deserved support, but he could not agree with the proposal to transpose some of the methods used in United Nations peace-keeping operations to the field of human rights. The early-warning system did not correspond to the Charter and the Commission's work in that field. Furthermore, the proposal had not found support in the General Assembly. It was most important to stress that,

when alternative approaches were mentioned for improving the enjoyment of human rights that did not imply means other than those prescribed in the Charter and the widely-recognized principles enshrined in the main human rights instruments. He agreed with the Secretary-General that the basic international instruments must be universally ratified. To achieve that goal should be the main task of all those working in the human rights field. States and groups of States must be persuaded to stop boycotting those instruments since there could be no common understanding or common standards until they had been ratified by the majority of States. Alternative approaches could then be sought in improving the implementation of the instruments by all States. It was the task of the United Nations to combat gross and flagrant violations of human rights. However, he could not agree that such violations occurred in all parts of the world. In that regard, he quoted General Assembly resolution 32/130, paragraph 1 (e), as setting out the standard causes of such violations.

80. The Australian representative had referred to the main co-ordinating role of the Commission. Realism however would force its members to recognize that the true co-ordinating bodies of the United Nations human rights system were the General Assembly, the Third Committee and then the Economic and Social Council. The Commission assisted those bodies and only within that framework could its co-ordinating role be recognized. Alternative approaches should be considered mainly with a view to rectifying gaps or faults in the Commission's work. The composition of the Commission, like that of some other United Nations bodies, was not particularly well-balanced: there had been efforts to force the political and economic views of the minority on to the majority, and to use human rights as a tool for interference in the internal affairs of sovereign States. Efforts were being made to set up institutions which might indeed be active but which were not noted for concern for human rights. That comment related, inter alia, to the consultative status of non-governmental organizations. At the latest session of the Committee on Non-Goveirnmental Organizations, a number of States, including many in Africa, had questioned the representative nature of the majority of non-governmental organizations. All too often, the consultative system was used as a channel for slander and misinformation about States which had nothing to do with the protection of human rights. Frequently, the secretariat also suffered from such difficulties and insufficiently reliable information was introduced into United Nations forums. African delegations and his own delegation had put forward proposals in that Committee but they had been thwarted because the United Nations Office of Legal Affairs had submitted a poorly prepared memorandum on the general position which had not taken the situation in Geneva into account. In fact, on certain subjects, the Commission received inadequately documented material which was sometimes used for political propaganda purposes.

81. In endeavouring to improve the work of all echleons of the United Nations human rights system, members of the Commission should start by ensuring that the Commission itself, by adopting a well-balanced and non-politicized approach, could work on a basis of consensus. It should revise the consultative system for non-governmental organizations and exercise balance in giving tasks to the Centre for Human Rights. Some States, in their quest for alternative approaches, were seeking to revise the basic principles of the United Nations system by proposing the creation of new supra-national institutions such as a High Commissioner for Human Rights. All such ideas impinged on the internal affairs of States. For large States, that issue was not important but for small young States, such

institutions could be very dangerous since they could be used for the spread of imperialist propaganda. The Soviet Union had always been against the creation of such institutions. His delegation appealed to members to look critically at their own positions and apply themselves in a spirit of co-operation to finding a solution to human rights problems.

82. Mrs. COLL (Ireland) said that in view of the meagre progress which had been made, it must be queried whether it was useful for the Commission to continue to proceed under agenda item 11 as it had been doing. The informal Group of 10, which had met during the thirty-ninth session of the Commission to recommend ways of lightening its agenda, had resulted only in one item being dropped and two others being considered every two years; a more far-reaching approach would have required agreement to tackle the interrelationships of all the relevant United Nations bodies in the human rights field. Furthermore, even that modest result had been achieved only when the issue of the Commission's agenda had for one session been detached from the over-all analysis of alternative approaches.

83. In 1983, in spite of every effort to identify a small number of measures which might command consensus, the open-ended working group, to which the Commission had since 1977 entrusted the over-all analysis, had merely reported that different views had been expressed on the intersessional role of the Bureau, emergency sessions of the Commission, the creation of a post of United Nations High Commissioner for Human Rights, the review of the Commission's terms of reference and its long-term programme of work, and the usefulness of the group itself. In 1984, in order to facilitate the Commission's consideration of the latter point, the group had conducted a review of what it had undertaken since its inception. Of the seven matters discussed by the group on which some action had been taken, two of them, were attributable to discussions in the Bureau or in the informal Group of 10 rather than to the group itself. Action on the most significant of the remaining matters dated back to 1979. The group had also listed six on-going programmes which it had discussed in its role of "think tank", but it was tacitly acknowledged that it had made no material contribution to their development. Finally, it had listed the matters on which no agreement had been reached. In spite of that unimpressive record, her delegation had agreed that the Committee should consider at its next session the establishment of an open-ended working group to continue the over-all analysis, because it had not been possible to consider that question at the current session as required by Commission resolution 1984/59.

84. She was aware that many delegations regarded the working group as an important vehicle for their efforts to ensure that the Commission's work developed along the lines set out in General Assembly resolution 32/130. Her delegation would ask those delegations to have regard to the fact that, in the view of some, that resolution constituted at best a defective starting-point for the orientation of future United Nations work in the field of human rights and that it needed to be complemented by other resolutions, in particular Assembly resolution 37/200. The second preambular paragraph common to both International Covenants rightly stated that human rights "derive from the inherit dignity of the human person": their nature would be lost sight of if the individual was not at the centre of all discussions on them. Equally, in view of the disparity between established principles and the actual situation of human rights in various parts of the world, lack of attention to known or alleged violations of human rights must undermine everything else which the United Nations attempted in the human rights field.

Since the working group operated by consensus, its advocates must know that it was doomed to sterility unless all participants had a positive stake in it. Her delegation and other delegations would have such a stake only if the orientation of the working group took sufficient account of the nature of human rights and the reality of violations.

85. In conclusion, she suggested that agenda item 11 might acquire a new lease of life if it was used in order to consider systematically the impact of developments under other agenda items for the further promotion and encouragement of human rights. At the current session, resolutions might be adopted to expand United Nations fact-finding capacity in relation to human rights violations. The range of such mechanisms had been growing steadily over recent years and it might be useful, in the not too distant future, to take stock of what had been built up piecemeal.

86. Mrs. CU Yijie (China) observed that massive violations of human rights such as apartheid, racial discrimination and foreign domination, which were still very much in evidence, not only brutally trampled underfoot the fundamental rights of the countries and peoples concerned but gravely threatened international peace and security. It was for that reason that the General Assembly had adopted resolution 32/130, which enumerated such causes of grave violations and laid down guidelines for the promotion of human rights. It must be strictly implemented and her delegation was pleased to note the recent progress in that regard, such as the drafting of a declaration on the right to development and the growing concern of the international community about massive human rights violations.

87. The question of establishing a United Nations High Commissioner for Human Rights had been under discussion for a long time, but the fact was that there was no general acceptance of the proposal. Her delegation considered that the matter needed patient consultations so as to achieve a consensus. The mandate proposed should be clearly stipulated and in that respect the proposals made by the Sub-Commission at its thirty-sixth session in its draft resolution XVI (E/CN.4/1984/3, p. 11) were not sufficiently specific. For example, the proposed duties of the High Commissioner were too general and his relationship with other organizations in the United Nations was not clear. At first sight, some of his duties seemed similar to those of the Secretary-General of the United Nations himself. Under those circumstances, questions arose about the number of assistants the High Commissioner would have and the relationship between the Office of the High Commissioner and the Centre for Human Rights and whether there would be serious duplication of organizations and staff. In her view, there were still many difficulties in the way of an early decision on the establishment of the post of High Commissioner. She hoped that the Commission would examine the issue further only after listening to the opinions of all parties. Her delegation was prepared to explore the question with all other delegations.

88. Mr. RAJKUMAR (Pax Romana) said that while noting with appreciation existing human rights information activities, his organization considered that they should be multilingual and more wide-ranging. In addition to providing information about human rights and the human rights instruments, they should make available information about procedures, interlinkages and appropriate channels. Wider dissemination of information by other international agencies was required and, as the Government of Australia had stated (E/CN.4/1985/16, annex I, p. 8), consideration should be given to ways of improving co-ordination between the various bodies in the United Nations system such as, for example, the Committee on Crime Prevention and Control and the Commission for Social Development. His organization had noticed the absence of representatives of those bodies from the

current session of the Commission. His organization also endorsed the view of the Government of Canada (ibid., p. 5) that the role of the Centre for Human Rights should be strengthened, and that Governments and non-governmental organizations should be provided with material which could be easily used for wider distribution. It would also be useful if, in addition to the Centre giving briefings in the course of the year, it could organize working sessions to strengthen co-operation arrangements with non-governmental organizations.

89. His organization appreciated the various regional arrangements that existed in Europe, the Americas and Africa. They should be encouraged by Governments within the regions and United Nations bodies should collaborate increasingly with such arrangements. The Governments of countries in the Asian region should make an effort to remedy the lack of such arrangements in that region. There had been an attempt by non-governmental organizations to launch an Asian Human Rights Commission with the object of promoting greater awareness and realization of human rights in the region, and mobilizing Asian and international public opinion to obtain recognition and redress for the victims of human rights violations.

90. He wished to refer to the working methods of the Commission at the current session in the light of its potential for playing a key role in United Nations efforts to promote respect for human rights. In order to increase the Commission's credibility, as had been stressed by many representatives, the Commission must review its schedule of work, arrangement of items and the advance availability of documentation. Pax Romana included students who looked for a more substantial contribution from the Commission in promoting their rights and aspirations in International Youth Year. In that connection, he also wished to raise the matter of preventing further violations, specifically in terms of situations which were brought to the attention of the Commission.

91. Mr. AVERY (Amnesty International) recalled that the Commission, recognizing the failure of the United Nations to provide the most basic information on which to base consciousness-raising programmes about human rights, had since 1979 adopted a series of resolutions on the development of public information activities. Its requests had been modest but the response to them had not been encouraging.

92. Amnesty International had welcomed the proposed dissemination programme in the Secretary-General's report to the thirty-seventh session of the Commission (E/CN.4/1433) as a starting-point. It further welcomed the publication by the Department of Public Information of the Standard Minimum Rules for the Treatment of Prisoners and the Principles of Medical Ethics, which it hoped would soon be reproduced in all the official languages of the United Nations. In September 1984, the Code of Conduct for Law Enforcement Officials and Human Rights: A Compilation of International Instruments had again become available in English. But it was regrettable that the simple objective of having the major human rights instruments translated and disseminated in all United Nations languages had not yet been achieved. The Universal Declaration of Human Rights and the International Covenants were not yet available in Arabic, and it was to be hoped that both they and other major human rights instruments would shortly be so available. The Compilation of International Instruments was currently available in French, English and Spanish only, whereas the proposed programme had provided for it to be published by 1985 in all official United Nations languages and in a further six to eight non-official languages.

93. It should be noted that versions in languages other than the official United Nations languages could at present be obtained only from the United Nations Information Centre which held the copies: they were not centrally available. That was one reason why the compilation of translations which had several times been recommended by the Commission was so important. Translations into such major languages as Portugese and Swahili should receive priority.

94. Audio-visual techniques were crucial in promoting knowledge of human rights in view of the high level of adult illiteracy in many developing countries. However, the basic materials did not exist. Adequate resources should be made available to produce them under the aegis of the United Nations and, with the assistance of its information centres, to adapt them to local cultures. By way of example, the Inter-American Commission on Human Rights had recently produced for its twenty-fifth anniversary two posters which conveyed simple messages respectively condemning the practice of disappearances and upholding the right to freedom of assembly. Particular attention should be given to promoting awareness of the specific rights which might never be derogated from under any circumstances.

95. The role of United Nations information centres in disseminating basic information, including information on international recourse procedures, was of fundamental importance. Member States must ensure that the centres were given the means to conduct active programmes. The establishment of small human rights libraries in United Nations offices was also to be welcomed, as was the selected list, appended to the Secretary-General's report, of materials to be sent to United Nations information centres, although it might be useful to have further consultations within the United Nations family before it was finalized. The list omitted some reports in which there was widespread interest, for example, those of the Working Group on Enforced or Involuntary Disappearances, those of the Special Rapporteur on Summary or Arbitrary Executions, and those relating to the human rights situations in specific countries. It was regrettable that few Governments, which had the major responsibility for promoting human rights, had developed public information programmes in that field, in spite of suggestions and recommendations from the United Nations over the years. The fortieth anniversary of the United Nations provided an appropriate opportunity for Governments, non-governmental organizations and the United Nations to review their activities to date with a view to developing comprehensive public information programmes so that people in all walks of life knew their rights and the commitments Governments had made to guarantee those rights to individuals under their jurisdiction.

96. The Commission or the Sub-Commission might wish to consider the appointment of a Special Rapporteur to study the wider aspects of the promotion of human rights and to assess developments to date in Member States and within the United Nations, taking into account the current discussions under advisory services and assistance to Member States and to recommend ways to develop effective programmes of information and training in the field of human rights.

97. Miss CAO-PINNA (Observer for Italy) said that in approaching agenda item 11, it might be useful for the Commission to consider what could be done to develop a common understanding of the broad concept of "international co-operation" as affirmed in Article 1, paragraph 3, and further specified in Articles 55 and 56 of the Charter, to which all Member States were committed. Other terms of the Charter also seemed to lack a common understanding. Such was the case with the

principle of non-interference in matters which were essentially within the domestic jurisdiction of any State. The Charter did not specify which those matters were. In practice, notwithstanding the impressive record of the United Nations in the codification of human rights and the constantly growing number of ratifications of existing conventions, in a number of cases in the field of fundamental freedoms, national law prevailed over the international code. The Commission should reflect on what could be done to avoid too rigid an application - in the field of human rights - of the principle of non-interference. It was also a fact that in a number of cases, the co-operation of the States concerned was either partial, purely formal or even totally refused. Accordingly, a review of the results achieved through the measures adopted so far to combat gross violations of human rights could perhaps help the Commission to agree on the experimental establishment of a High Commissioner for Human Rights in order to avoid the current position in which the solution of such situations could be achieved only through the efforts of the affected people themselves. Argentina and Uruguay were cases in point.

98. In the light of the foregoing observations, her delegation would like to give tentative answers to two questions put by the Assistant Secretary-General for Human Rights in his opening statement (E/CN.4/1985/SR.1, paras. 12 et seq.). The first question related to the speedy response by the United Nations to gross violations of human rights and what was being done to anticipate them. Her delegation fully concurred with the Assistant Secretary-General that there seemed to be room for further reflection. The speed of United Nations response could hardly be considered satisfactory but a review by the Centre for Human Rights of the time which had elapsed during the past 15 years between the adoption of resolutions appointing special rapporteurs or working groups to carry out fact-finding activities on country situations and the beginning of such activities in the countries concerned could be of assistance in establishing the speed of the Commission's initial response. The question of anticipating or preventing the occurrence of gross violations of human rights was very complex because of the association of such violations with local or social conflicts, sudden declarations of states of emergency, etc. The international press and television currently ensured that information on sudden events reached the United Nations promptly but the only means available to the Organization were the good offices of the Secretary-General, unless the Commission, the Economic and Social Council or the General Assembly happened to be in session.

99. The second question concerned the adequacy of means for providing assistance to victims of human rights violations or to Governments in need of assistance. That was also a complex question. The establishment of a voluntary fund for victims of torture was certainly highly commendable and since the victims were estimated to number over 2 million, assistance to them should be provided by United Nations bodies operating in the social field. Assistance to Governments depended upon the willingness of the Governments themselves and regrettably there had been cases in which the offer of assistance had been refused. That did not mean that her delegation disagreed with the Assistant Secretary-General's opinion that the whole area of advisory services should be reviewed. However, it did consider that such a review should be made on the basis of a survey of the assistance provided by the United Nations through the programme of advisory services since the programme had been set up. That report could be supplemented by information on technical assistance, if any, provided by regional organizations in the field of human rights.

100. The fact that the working group on agenda item 11 was included in square brackets in the Commission's programme of work for the current session suggested that the Commission was aware of the inadequacy of the decision taken some years previously on its establishment. Item 11 was indeed the broadest item on the Commission's agenda and could not be approached without adequate preparation.

101. Mr. PRASAD (India) said his delegation had noted with interest the emphasis placed in the Secretary-General's address in Quebec on universal acceptance of international standards and the development of technical assistance in the field of human rights. Technical assistance was indeed welcome, especially in disseminating the basic human rights ideals at the grass-roots level both directly and through educators. It was regrettable that the Commission did not have time to treat agenda item 11 with the detail it deserved.

102. Taking General Assembly resolution 32/130 as the general framework within which the item should be discussed, his delegation considered that means should first be explored of enhancing the effectiveness of the existing United Nations human rights bodies and procedures. It attached great importance to the standard-setting role of the system, considering that international and regional co-operation was an essential prerequisite for creating the appropriate atmosphere for the promotion of universal enjoyment of human rights. In that connection, it supported the initiative for evolving regional arrangements in Asia and the proposal to develop public information activities in the field of human rights. International and regional co-operation had significant implications, in particular with regard to the promotion of social, economic and cultural rights. Economic and social systems should not impose institutional oppression on individuals through indebtedness, rack-renting, slave labour or apartheid. Egalitarianism was an ideal towards which societies should move. It was because the structures of inequality which currently existed between nations and within societies prevented the effective enjoyment of human rights that his delegation placed special emphasis on the right to development and the establishment of a new international economic order. It was important to focus attention on the continuing denial of human rights to large sections of mankind on racial, ethnic or religious grounds. The Commission should endeavour to achieve the greatest possible measure of consensus on the more flagrant and pervasive forms of human rights violations. He had noted with dismay the tendency of certain important delegations to hold aloof from moves directed against such violations in some parts of the world and to concern themselves instead with the slow evolution of new institutional devices.

103. With regard to alternative approaches, he urged all members of the Commission to make every effort to reconcile divergent views, since progress in that sensitive area of the Commission's work could be based only on genuine and wide consensus. Any discussion about renewing the working group's mandate appeared to be superfluous since it had already been decided to consider the matter at the Commission's next session.

104. Mr. KUN PARK (Observer for the Republic of Korea) said that the Commission's deliberations could be made still more effective and credible. In that connection, he wished to comment on the statement which had been made by an observer delegation which had several times mentioned the Republic of Korea. His delegation rejected the observer's remarks.

105. Mr. YAKOVLEV (Union of Soviet Socialist Republics), speaking on a point of order, requested the Chairman to remind the observer for the Republic of Korea that the Commission was discussing agenda item 11 and that he should address himself to that item.

106. Mr. KUN PARK (Observer for the Republic of Korea) said that agenda item 11 included the question of the Commission's methods of work. Continuing his statement, he expressed the view that human rights in the Republic of Korea were in much better shape than in the country of the observer he had mentioned, and that his country's past history was more honourable. It was his conviction that the work of the Commission would be further improved if participants refrained from speaking about the human rights situations in other countries when the situation in their own countries was worse.

107. The CHAIRMAN announced that consideration of agenda item 11 had been concluded.

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (agenda item 13)
(E/CN.4/1985/NGO/24, 41 and 48; E/CN.4/1985/L.1, L.74 and L.86)

108. Mr. HERNDL (Assistant Secretary-General for Human Rights) introducing the item, recalled that, in opening the session of the Working Group on a draft Convention on the Rights of the Child on 28 January 1985, he had expressed the hope that the commencement of International Youth Year would inspire greater efforts to promote and protect the rights of young people; that inspiring cause must naturally begin with the child. The Declaration of the Rights of the Child, adopted in 1959, had proclaimed that "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity". Since 1978, the Commission had been engaged in drafting a Convention on the Rights of the Child with a view to developing the Declaration and concluding a universal instrument containing binding obligations for States. The Working Group had met for a week prior to the present session and held some meetings during the session. Its report was contained in document E/CN.4/1985/L.1.

109. The CHAIRMAN said that Mr. Lopatka, Chairman Rapporteur of the Working Group on a draft Convention on the Rights of the Child, was respected for the high offices he held in his own country and for the admirable way in which he conducted the deliberations of the Working Group. He invited Mr. Lopatka to introduce the report of the Working Group.

110. Mr. LOPATKA (Chairman-Rapporteur of the Working Group on a draft Convention on the Rights of the Child) said that, by resolution 1984/24, the Commission had decided to continue, as a matter of the highest priority, its work on the draft Convention on the Rights of the Child. By resolution 1984/25, the Economic and Social Council had authorized the establishment of an informal open-ended Working Group to meet for one week prior to the Commission's forty-first session. The Group had held 10 meetings between 30 January and 8 March 1985, when it had unanimously adopted its report (E/CN.4/1985/L.1).

111. Unfortunately, the Group had not been able to complete the draft Convention. It had adopted five new articles concerning: the right of the child to enjoy the best possible health; the right of all children to an adequate standard of living; the right of the child to education; the basic goals of the education of children; and the right of the child to rest and leisure. To date, the preamble and 23 articles of the draft Convention had been adopted by the Group. A few articles of the operative part remained to be agreed upon; the adoption by the Commission of draft resolution (E/CN.4/1985/L.74) would help the Group carry out its tasks both prior to and during the forty-second session of the Commission.

112. A spirit of objective co-operation had prevailed in the Working Group, in which all decisions had been taken by consensus. He proposed that the Commission should adopt the Working Group's report without a vote.

113. Mr. KONATE (Senegal) said that a lengthy period had elapsed between the adoption of the Declaration of the Rights of the Child and the international community's manifestation of a desire to translate the principles contained in the Declaration into legal obligations. The fact that the Working Group had spent several years, trying to draft a Convention was admittedly due to certain difficulties. Firstly, the limited number of participating delegations, despite the fact that the Group was open-ended, meant that some of the concerns of most of the countries interested in the issue might be neglected. Secondly, it was difficult to grant rights to a legal category of persons - children - without taking all necessary precautions, namely, by drawing on the traditional and cultural values of the subject's milieu. In the African countries, for example, at what age did one cease to be a child? For that reason, his delegation considered that in relation to article 1 of the draft Convention, the age-limit for childhood should be left to national legislation.

114. The Convention must take account of the economic, social and cultural environment of each country; the legal situation of children in developing countries, for example, could not be approached without taking into consideration their wretched living conditions. They were the children of famine, malnutrition and illiteracy, the children of millions of refugees, victims of armed conflict and concentration-camp inmates who were counting on international solidarity to help them out of their desperate situation. The Convention was a difficult exercise since it could not satisfactorily reflect the concerns and legislation of every country; but as a common denominator, it should pay particular attention to the millions of children of the third world and reflect in clear terms the aspirations and tragic situation of the children of armed conflict, the fear of refugees, and the food and sanitary conditions of the unfortunate children in developing countries. Account must also be taken of children in certain developed countries who had become the "new poor" or the "fourth world". Those disadvantaged children too, were counting on the understanding and aid of the international community.

115. The crucial question for the peoples of the third world was what were the rights of the child for developing countries? First of all, what was the significance of the right to leisure to a starving and sick child? The draft Convention must specifically affirm the right to life and contain provisions concerning the right of the child to health and to adequate food. Assuming that parents and the community in which the child lived were primarily responsible for him, the drastic economic situation of the developing countries could not be avoided. That would undoubtedly be a source of inspiration for the drafters of the Convention, who should consider the need for international solidarity and co-operation to help those countries implement health programmes and overcome their food shortage, estimated at 6 million tons of cereals. The tragedy of Africa was illustrative in that respect. Furthermore, if the objective of the Convention was to establish a universal legal framework, that search for universality should take account of the objective condition of the developing countries and their contractual capacity to give effect to the Convention.

116. Secondly, what child could develop while being tormented by the horrors of war? International humanitarian law required the drafters of the Convention unequivocally to affirm the child's right not only to enjoy special assistance and protection, but to live in peace.

117. Thirdly, the Convention must at the very least offer child refugees the hope of returning to their families by guaranteeing them adequate assistance. Principle 8 of the Declaration of the Rights of the Child stated that "The child shall in all circumstances be among the first to receive protection and relief"; that was especially important in cases of mass exodus, periods of emergency, armed conflicts and natural disasters. The Convention would certainly be based upon the Geneva Conventions, and especially the Additional Protocols of 1977, stressing the obligation of the parties to conflicts to give aid to children.

118. A final difficulty concerned politics. Since it was generally admitted, in all systems of education, that children did not engage in politics, the rights granted to them should be less politicized. It was that appeal which Senegal wished to make to the international community and to the Working Group in particular.

119. Ms. PEARCE (Australia) reiterated her delegation's priority commitment to the satisfactory conclusion of a draft Convention on the Rights of the Child which would recognize the individuality of the child and the prerogatives of the family when establishing standards for national policies and legislation. It was particularly encouraged by the progress made during the latest session of the Working Group, when five articles had been adopted. It was also pleased to note the wider participation of member States in that session, and appreciated and wished to encourage the involvement of non-governmental organizations and specialized agencies in the Group.

120. The preparation by the Secretariat for the 1985 session of a list of proposed articles to be considered by the Working Group had been greatly appreciated by all parties involved, and her delegation noted the usefulness of such procedural assistance. Her Government would continue its active participation in the Working Group. In particular, at the following session, it would propose the removal of all sexist language from the current draft of the Convention - a reflection of her delegation's concern that the rights incorporated should apply equally to every child in every society.

121. Mr. CLEMENT (France) said that his country had always attached great importance to the Working Group's task of preparing a draft Convention on the Rights of the Child. A spirit of seriousness and co-operation had once again prevailed among the participating delegations, and a particularly constructive role had been played by the representatives of Poland and Canada, who had submitted proposals and draft articles. The participation of many non-governmental organizations had also enhanced the debates.

122. The five articles adopted on first reading touched upon essential aspects of the promotion of the rights of the child. The right to medical services, the right to a standard of living adequate for a child's physical, spiritual and social development, and the right to education and leisure all provided an environment capable of guaranteeing the development of the child, towards which States as well as parents and guardians must strive.

123. Children were frequently the first victims of the sometimes brutual reality of relationships within the community of nations. In that respect, the fate of children shared between two parents who were separated by a frontier was particularly distressing. Geographical separation drove to despair both children, who needed material and paternal stability, and parents, who were prevented from performing their role. Unfortunately, the current international situation provided tragic examples of that situation, to which the Governments concerned should give serious attention.

124. His delegation hoped that the efforts of the Working Group to complete the draft Convention would soon be successful. In that connection, it had listened with great attention to the statement by the representative of Senegal, who had touched upon some essential issues. His delegation hoped that the Economic and Social Council would authorize the Working Group to continue its work for one week prior to the forty-second session of the Commission, and wished to assure the Group of its continuing active co-operation.

125. Mrs. KSENTINI (Observer for Algeria) noted that the Working Group had made considerable progress and that many articles had already been adopted on first reading. Her delegation, however, was concerned that the main provisions adopted so far in relation to the economic and cultural rights of the child were severely weakened by considerations linked to "availability of resources". Moreover, the provisions of the draft Convention were in some respects much weaker than those of other international human rights instruments. Her delegation had on a previous occasion criticized the dichotomy between "rights inherent in the individual", which by their nature enjoyed privileged protection, and so-called economic rights, which would only be applied "progressively", taking account of available resources. It hoped for a more fruitful and constructive approach in the final text of the Convention.

126. The completion of an international instrument taking into account the interests, needs and basic rights of children in general and those of the developing countries in particular would be a key contribution to the protection of children and the establishment of equal opportunities for future generations.

127. At a decisive stage in its development, Algeria was showing a marked interest in young people and children, who were one of the crucial sectors of the population. Article 65 of the Algerian Constitution defined the family as the basic unit of society and provided for State protection of motherhood, children, young people and old people. Article 66 established the right of all citizens to free education, and article 67 provided that all citizens had the right to protection of their health. Those provisions were reflected in a development policy which ensured social and economic progress, and the welfare of the population and especially of the most disadvantaged and vulnerable sectors.

128. Nearly 45 per cent of the Algerian population was under 15 years of age. The number of children of school age was increasing at an annual rate of 4.2 per cent and would reach 9 million by the year 2000. The rate of school attendance had risen from 20 per cent immediately following independence to 44 per cent in 1966 and 81.2 per cent in 1982. In September 1984, all children six years of age had been in school. The efforts made by Algeria in the area of education could be

appreciated by considering the fact that Algeria's 5 million children represented one fourth of its population, and that the infrastructure necessary for meeting the immediate needs of that age group required the opening of 5,000 classrooms, 100 basic polytechnical schools and 40 high schools every year. Furthermore, broad social activities were undertaken with a view to encouraging studies, for example in the areas of scholarships, aid to families, etc.

129. Algeria strove to promote quality education which would meet the requirements of modern society and allow Algerian children access to the scientific and technical knowledge necessary for their future as citizens of a country oriented towards development and progress. Algeria's achievements in the area of education came within its global development objective for all sectors of economic, social and cultural life and reflected its efforts constantly to improve the standard of living of its citizens in general and children in particular. The protection of children and the promotion of their rights demanded true commitment at the national and international levels.

130. Turning to the situation of children of separated or divorced couples, particularly those of mixed marriages, she said the Algerian authorities had given constant attention to that distressing problem, which arose in many countries. Sensitive to the human dimension of the situation, the authorities examined individual cases with parents. Such situations required speedy bilateral negotiations between the authorities concerned, who must ensure that the interests of the child were met and that the rights, culture and national values of all the parties involved were respected.

131. Mr. YAKOVLEV (Union of Soviet Socialist Republics) expressed gratitude to Mr. Lopatka for his efforts to ensure the completion of the drafting of a very important new international instrument, the Convention on the Rights of the Child. He noted that Mr. Lopatka's Government had been one of the sponsors of the Declaration of the Rights of the Child 25 years before. He joined previous speakers in stressing the importance of the problem and recalled that enormous steps had been taken in that area in Poland 40 years before, after Hitler's armies had virtually destroyed that country.

132. General Assembly resolution 39/135 provided for completion of the Convention; however, obstacles created artificially by certain representatives had hindered the fulfilment of that mandate. He hoped that the efforts of the Working Group would ensure the successful completion of the text and its submission to the Commission at the following session. his delegation supported the observations on the text made by previous delegations, especially those of Senegal and Algeria, and the proposal for the extension of the mandate of the Special Rapporteur.

133. Ms. MARTIN (Observer for Canada) said that her delegation had taken an active part in the Working Group and had been particularly pleased at the widespread participation in the Group at the current session. The successful adoption by consensus of five articles constituted considerable progress towards completion of the substantive articles of the draft Convention. Of note was the introduction of an article that aimed at protecting children in situations of armed conflict. The particular vulnerability of children in such situations warranted the Commission's urgent consideration.

134. As her delegation had stated in the Third Committee of the General Assembly, children were the future of mankind, but they were more than that abstract expression suggested. They were individuals, persons with rights - civil, political, economic, social and cultural rights that merited careful elaboration in the form of legal standards. There was a tendency to subsume the rights of children in the rights of their parents. While it was true that certain rights of children were inevitably dependent on the parent for their enjoyment, they were not thereby rights accruing only to the parent.

135. It was a complex task to translate those concepts into carefully drafted principles that took into account the respective roles of parents and the State in the implementation of the rights of the child, while at the same time respecting the privacy of the family. A further complication was the fact that a child's ability to exercise his or her rights naturally increased as the child matured. That notion had been addressed by the Working Group the year before in the context of the child's freedom of religion.

136. Because those concepts were not easily expressed in the language of an international instrument, the drafting process was understandably proceeding at a measured pace. Her delegation hoped that the Convention would be completed as quickly as possible, but it should be a carefully-worded and internally-consistent document which addressed some of the difficult questions surrounding the rights of the child. The Convention should also be consistent with existing rights that children enjoyed under other basic human rights instruments which included children through their use of the term "everyone".

137. Her delegation was concerned at the increasing number of qualifications linking the progressive implementation of certain rights with national conditions or available resources. It was equally concerned that inconsistencies might arise in the text when such different terms were used to convey the notion of progressive implementation. It had suggested in the Working Group that those qualifying references might be eliminated during the second reading of the Convention and replaced by a single article such as article 2 (1) of the International Covenant on Economic, Social and Cultural Rights. It hoped that such an article would meet the concern of some countries about the feasibility of the immediate implementation of some of the rights embodied in the draft Convention. It was important not to draft in 1985 a Convention that provided fewer rights for children than conventions drafted 20 years before.

138. Maximum progress on the draft Convention could be achieved only if delegations participating in the Working Group had access to all the necessary information. Certain documents should be provided well in advance of the Working Group's session. Those documents should include: a consolidated list of proposals for amendments or new articles submitted to date; an analysis of articles in international instruments relating to the article of the draft which remained to be considered; and an analysis of final clauses. For its part, her delegation intended to make as constructive a contribution as possible to the drafting of the Convention.

The meeting rose at midnight.